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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

SILTRONIC CORPORATION, a Delaware corporation,

Plaintiff,

v.

EMPLOYERS INSURANCE COMPANY OF WAUSAU, a Wisconsin corporation; GRANITE STATE INSURANCE COMPANY, a Pennsylvania corporation,

Defendants.

Case No. 3:11-CV-01493-YY

DECLARATION OF MYRON BURR
IN SUPPORT OF SILTRONIC
CORPORATION'S MOTION TO
REQUIRE WAUSAU TO COMPLY
WITH THIS COURT'S ORDERS BY
PAYING DEFENSE COSTS ON
CURRENT BASIS

I, Myron Burr, hereby declare:

1. I am currently employed by plaintiff Siltronic Corporation ("Siltronic") as its Senior Manager for Environmental, Health and Safety. I have been employed in that position

since October 1, 2012 and, prior to October 1, 2012, I was employed by Siltronic as its Environmental Affairs Manager. I make this declaration in support of Siltronic Corporation's Motion to Require Wausau's Compliance with this Court's Orders. I make this declaration based upon my personal knowledge and I am competent to testify to the matters stated herein.

2. On April 22, 2016, I sent a letter by e-mail to Harold R. Moore of Nationwide Indemnity Company, administering the insurance policies issued by Employers Insurance Company of Wausau ("Wausau") to Siltronic, demanding that Wausau immediately undertake its defense obligations under the 1978-79 Policy in accordance with Magistrate Judge Stewart's Second Amended Opinion and Order issued on September 2, 2015. A true and correct copy of this demand letter is attached hereto and incorporated herein as **Exhibit 1**.

3. On April 22, 2016, I sent a second letter by e-mail to Mr. Moore demanding that Wausau satisfy its obligation to provide Siltronic with "independent counsel" in accordance with Magistrate Judge Stewart's Opinion and Order issued on March 31, 2016. This demand letter requests immediate reimbursement of the following: (a) Siltronic's independent counsel fees incurred from June 2013 to April 22, 2016 in the amount of \$626,307.50; and (b) Siltronic's Natural Resource Damage Assessment payment in the amount of \$90,277.78. This demand letter also requested Wausau's recomputation of its exhaustion analysis in accordance with the Opinion and Order dated March 31, 2016 including, but not limited to, the Court's characterization of the "LWG Fund Payment" in the amount of \$49,920 as defense not indemnity. A true and correct copy of this letter is attached hereto and incorporated herein as **Exhibit 2**.

4. On April 28, 2016, I sent a third letter by e-mail to Mr. Moore demanding Wausau's compliance with Magistrate Judge Stewart's Second Amended Opinion and Order issued on September 2, 2015. This letter enclosed Granite State Insurance Company's ("Granite State") accounting spreadsheet, entitled "Siltronic – Summary of MFA Deductions," listing

Siltronic environmental consultant's ("MFA") costs in the amount of \$66,033.88, payment of which was declined by Granite State during the period from December 2009 to July 2015 because the costs addressed "MGP-Only" contamination. Siltronic demanded that Wausau reimburse it for such costs pursuant to its defense obligation under the 1978-79 Policy. A true and correct copy of the letter dated April 28, 2016 is attached hereto and incorporated herein as **Exhibit 3**.

5. On June 9, 2016, I sent a fourth letter by e-mail to Mr. Moore demanding Wausau's compliance with Magistrate Judge Stewart's Second Amended Opinion and Order dated September 2, 2015. This letter forwarded letters dated May 2, 2016 and May 3, 2016 to Siltronic from AIG, administering the policies issued to Siltronic by Granite State. The two letters from AIG decline payment of MFA costs in the total amount of \$51,422.50, payment of which was declined on behalf of Granite State because the costs addressed "Historical Contamination." Siltronic demanded that Wausau reimburse it for such costs pursuant to its defense obligation under the 1978-79 Policy. A true and correct copy of the letter dated June 9, 2016 is attached hereto and incorporated herein as **Exhibit 4**.

6. On June 15, 2016, I sent a fifth letter to Mr. Moore by e-mail demanding Wausau's compliance with Magistrate Judge Stewart's Second Amended Opinion and Order dated September 2, 2015. This letter forwarded letters dated June 13, 2016 and June 14, 2016 to Siltronic from AIG, administering the policies issued to Siltronic by Granite State. The two letters from AIG decline payment of MFA costs in the total amount of \$90,224.56, payment of which was declined on behalf of Granite State because the costs addressed "Historical Contamination." Siltronic demanded that Wausau reimburse it for such costs pursuant to its defense obligation under the 1978-79 Policy. A true and correct copy of the letter dated June 15, 2016 is attached hereto and incorporated herein as **Exhibit 5**.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated this 11th day of July, 2016.

s/ Myron Burr
Myron Burr

CERTIFICATE OF SERVICE

I hereby certify that on the date shown below, I served a true and correct copy of the foregoing DECLARATION OF MYRON BURR IN SUPPORT OF SILTRONIC CORPORATION'S MOTION TO REQUIRE WAUSAU TO COMPLY WITH THIS COURT'S ORDERS BY PAYING DEFENSE COSTS ON CURRENT BASIS on:

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- ☐ by first class mail, postage prepaid.
- ☐ by hand delivery.
- ☐ by facsimile transmission.
- ☐ by facsimile transmission and first class mail, postage prepaid.
- ☒ by ECF.
- ☐ by electronic transmission and first class mail, postage prepaid.

DATED: July 13, 2016.

s/ Christopher L. Reive
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